



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN VIRGINIA REGIONAL OFFICE
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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Jeffery A. Steers
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

Prince William County Animal Shelter
DEQ Registration No. 71740

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1307.D and 10.1-1309, between the State Air Pollution Control Board (SAPCB) and Prince William County, for the purpose of resolving certain alleged violations of the air permits and regulations as specified in SECTION C of this Order.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality.

4. "Facility" means the Prince William County Animal Shelter located at 14807 Bristow Road, Manassas, Virginia which is operated by the Prince William County Police Department Animal Control Bureau, and is controlled and owned by Prince William County.
5. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
6. "O&M" means operations and maintenance.
7. "Order" means this document, also known as a Consent Order and Appendix A.
8. "Prince William County" means the Prince William Board of County Supervisors, acting by and through the Prince William County Police Department Animal Control Bureau, and the Prince William County Department of Public Works
9. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
10. "SAPCB" means the State Air Pollution Control Board
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means Virginia Administrative Code.

SECTION C: Findings of Fact

1. The Prince William County Animal Shelter ("Facility") is located at 14807 Bristow Road, Manassas, Virginia. The Facility, which is a part of the Prince William County Police Department, operates an incinerator that cremates animal carcasses from the Facility and animal tissue, carcasses, organs, and other solid organic waste from veterinary hospitals throughout Prince William County. The Facility is also permitted to incinerate no more than (1) ton per year of paper and one-half (1/2) ton per year of controlled substances. While Prince William County Animal Control Bureau operates the incinerator, Prince William County Department of Public Works owns and conducts maintenance on the unit. The Facility's operation is subject to the terms of a Stationary Source Permit issued by DEQ on May 7, 1975, and amended on December 3, 1996 and February 14, 2006.
2. The Facility's Therm-Tec propane fired incinerator, Model G-20-P-1-0.5 with a 0.5 cu yd ram feeder, was installed in 1997 after the Facility's permit was amended in 1996. The December 3, 1996, permit amendment included a charge rate of 300 pounds per hour (pph) for this incinerator (Permit Condition #8) and pound per load, yearly throughput, and monthly propane throughput recordkeeping requirements (Permit Condition #15). This charge rate and

recordkeeping was also included in the February 14, 2006, permit amendment as Permit Conditions #8 and #13 respectively.

3. On April 26 and June 16, 2006, at approximately 3:00 pm, DEQ personnel observed smoke and a flame coming from the Facility's incinerator stack while driving on Route 234.
4. A full compliance inspection of the Facility was conducted on June 27, 2006, to determine the facility's compliance with the applicable SAPCB Regulations. This inspection revealed the following alleged violations as noted in a Notice of Violation issued by DEQ on July 14, 2006:
 - a. According to Facility records reviewed during the inspection, the incinerator was charged with batch quantities that exceeded the permitted incinerator charge rate of 300 pph on April 26, May 3, May 17, June 7 and June 14, 2006. It appears that these batches were not adequately combusted prior to the burn-down cycle being initiated. (Permit Condition #8 and SAPCB Regulation 9 VAC 5-80-1180)
 - b. From June 27, 2001 through January 31, 2006, the Facility could not demonstrate compliance with the permitted incinerator charge rate since records were not maintained. (Permit Condition #8 and SAPCB Regulation 9 VAC 5-80-1180) The previous inspection by DEQ on August 16, 2000, indicated the Facility's recordkeeping was "well organized".
 - c. The Facility could not demonstrate compliance with the annual throughput limits of 365 tons of combined animal remains, paper and controlled substances, and no more than one ton of paper and one-half ton of controlled substances, because records from June 27, 2001 through January 31, 2006, were not maintained and, due to the lack of a scale to weigh the materials to be incinerated throughput quantities were estimated. (Permit Condition #8 and SAPCB Regulation 9 VAC 5-80-1180)
 - d. The Facility records did not include annual throughput of waste incinerated, calculated monthly as the sum of each consecutive twelve-month period, or the exact load weight in pounds. (Permit Condition #13 and SAPCB Regulations 9 VAC 5-50-50 and 9 VAC 5-80-1180)
 - e. Facility records did not include the temperature of the secondary chamber during each charging event. (Permit Condition #13 and SAPCB Regulations 9 VAC 5-50-50 and 9 VAC 5-80-1180)
 - f. Facility records did not include the monthly throughput of propane gas for the incinerator calculated monthly as the sum of each consecutive 12-

month period. (Permit Condition #13 and SAPCB Regulations 9 VAC 5-50-50 and 9 VAC 5-80-1180)

5. The Facility verbally notified DEQ on July 12, 2006, that a gauge was installed to track propane usage on the incinerator.
6. On July 24, 2006, the Facility verbally responded to the NOV and requested a meeting. DEQ received the Facility's written response to the NOV on July 31, 2006.
7. On July 31, 2006, a scale was installed at the Facility. From June 28, 2006, until the scale was installed, the Facility weighed the material utilizing the scale system at the Prince William County Landfill.
8. DEQ and the Facility discussed the NOV and the Facility's response in a meeting on August 8, 2006.
9. On August 16 and 18, 2006, the Facility provided records including employee training, incinerator maintenance, incinerator burn log for July 2006, rolling monthly propane usage, and the rolling monthly throughput of materials burned.
10. The Facility contends that it acted in good faith with regard to the 300 pph charge limit, based on the permit language, the manufacturer's specifications, and the issuance of the new permit. The Facility contends that it did not attempt to circumvent or knowingly violate the conditions of the permit. Immediately subsequent to the June 27, 2006, site inspection and clarification by DEQ, the Facility changed the quantity of the initial load to comply with the February 14, 2006, permit.
11. The Facility has been keeping records from the date of the amended permit (February 14, 2006). After the June 27, 2006, inspection, the Facility also drafted a maintenance schedule and re-drafted forms regarding the appropriate recordkeeping and employee training. The Facility provided these forms to DEQ for review.
12. All Facility employees involved in the operation and maintenance of the permitted incinerator have been and are being properly trained in all written procedures, recordkeeping, and proper operation of the incinerator.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1316(C), the Board orders Prince William County, and Prince William County agrees, to comply with the specific actions given in Appendix A of this Order. Prince William County also agrees to pay a civil charge in the amount of five thousand three hundred twenty four dollars (\$5,324.00). The civil charge is due within 30 days of the effective date of the Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Prince William County, for good cause shown by Prince William County, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued July 14, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Prince William County admits the jurisdictional allegations contained herein. Prince William County consents to venue in the Circuit Court of Prince William County for any civil action taken to enforce the terms of this Order.
4. Prince William County declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

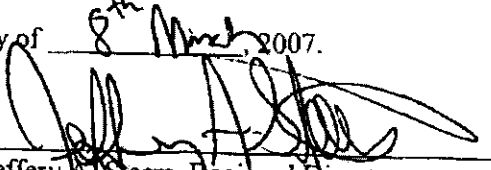
5. Failure by Prince William County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. Prince William County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Prince William County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Prince William County shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result or has resulted in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director or his designee and the Prince William County designee. Notwithstanding the foregoing, Prince William County agrees to be bound by any compliance date that precedes the effective date of this Order.

10. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Prince William County. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Prince William County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
11. By its signature below, the Prince William County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of 8th March, 2007.


Jeffery A. Seers, Regional Director
Department of Environmental Quality
Northern Virginia Regional Office

Prince William County voluntarily agrees to the issuance of this Order.

By: 

Date: 2-20-07

Commonwealth of Virginia

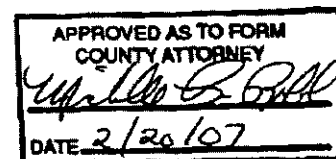
City/County of Prince William

The foregoing document was signed and acknowledged before me this 20 day of February, 2007, by Craig S. Gerhart, who is
(name)

County Executive
(title) of the Prince William County.


Notary Public

My commission expires: 9/30/2010



APPENDIX A

1. If the Facility desires to modify the February 14, 2006, Stationary Source Permit to include a batch load quantity, then:
 - a. Within 30 days of the execution of this order, submit a stack test protocol to Mr. Dennis Batts, NVRO Air Compliance Manager (ACM), for review and approval.
 - b. Notify the ACM of the scheduled stack test date at least 30 days prior to the testing.
 - c. Within 60 days of the execution of this order, conduct stack testing in accordance with EPA Reference Methods 201 or 201A (PM10) and Method 10 (CO) to ensure that the Therm-Tec G-20-P-1-0.5 incinerator meets the following emissions limits at the proposed batch load capacity:

PM 0.10 gr/dscf
[@ 12% CO₂ or 7% O₂]
[@ 12% CO₂ without the contribution of auxiliary fuel CO₂]

Carbon Monoxide 100 ppmvd 1-hr avg
[@ 12% CO₂ or 7% O₂]
[@ 12% CO₂ without the contribution of auxiliary fuel CO₂]
 - d. Two copies of the test results (one paper copy and one on CD) shall be submitted to the ACM within 45 days of the test completion.
 - e. Within 180 days of the execution of this order, submit a Form 7 permit modification application to Mr. Terry Darton, NVRO Air Permitting Manager, to include at a minimum a single batch load capacity.
2. As of the execution date of this order, the Facility agrees to the following additional requirements:
 - a. Record the time each load is charged;
 - b. Record daily, the time the incinerator is set to the burn-down cycle; and

The Facility's Stationary Source Permit will be modified to include these additional requirements.